THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte ROBERT S. DREYER and DONALD B. ALPERT

Appeal No. 96-1620
Application 07/938,288[1]

ON BRIEF

Before HAIRSTON, KRASS, and TORCZON, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 26, all of the claims pending in the application.

The invention pertains to the identification of a microprocessor being used in a particular computer system.

Representative independent claim 1 is reproduced as follows:

1. In a microprocessor formed on an integrated circuit, an identification apparatus for identifying the microprocessor in response to a supplied ID instruction, said identification apparatus comprising:

[1] Application for patent filed August 31, 1992.

a first register for storing and reading data;

a read-only memory storing microprocessor ID data including data fields that identify the microprocessor type;

a decoder for receiving and decoding an ID instruction; and

control circuitry coupled to the first register, the read-only memory and the decoder, including ID instruction execution means responsive to a decoded ID instruction including for executing the ID instruction received from the decoder, including reading the microprocessor ID data from the read-only memory and storing said microprocessor ID data in the first register.

The examiner relies on the following references:

Durst, Jr. et al. (Durst)	5,113,518	May 12, 1992
Kurihara et al. (Kurihara)	5,121,486	Jun. 9, 1992

Claims 1 through 26 stand rejected under 35 U.S.C. ' 103. As evidence of obviousness, the examiner cites Durst with regard to claims 1 through 8, adding Kurihara with regard to claims 9 through 26.

Reference is made to the briefs and answer for the respective positions of appellants and the examiner.

OPINION

We have carefully reviewed the evidence before us and, based on such a review, we conclude that the claimed subject matter would not have been obvious, within the meaning of 35 U.S.C. ' 103, based on the evidence provided by the Durst and Kurihara references.

With regard to claims 1 through 8, the examiner contends that Durst discloses the claimed subject matter but for the data in the ROM being “microprocessor ID data,” as claimed. However, the examiner concludes that it would have been obvious

> to include a ROM for storing a microprocessor ID data as claimed because the use of a ROM for storing the microprocessor identification data could help Durst to determine the authorized software for the correct microprocessor type in his computer system, and because Durst did suggest the need for storing the microprocessor identification data…in a memory [answer, pages 3-4].

We find that a careful reading of Durst suggests that, at best, Durst provides for an indirect identification of a processor through characteristics of the computer system such as ROM size, bus size, clock speed, etc. However, this is not a direct identification of the particular processor in use in a computer system nor is the identification unique. As pointed out by Durst, at column 16, lines 43-47,

> two different computer systems which otherwise

> might appear to be identical, and which may use the very same microprocessor, may include ROMs having different instruction sets which reflect different versions of those ROMs.

Accordingly, Durst is interested in identifying computer systems for the purpose of preventing a computer program from being used by a computer system other than a designated system and Durst's "identification" of a microprocessor in a computer system is not a unique identification since two systems using the very same microprocessor may, in fact, have different sized ROMs or different sized buses, etc.

In contrast, the instant claimed invention requires "a read-only memory storing microprocessor ID data including data fields that identify the microprocessor type." Therefore, the identification of the microprocessor in the instant claimed invention is both direct and unique since the ID data for that microprocessor is stored in the ROM. The examiner contends [answer, page 9] that "microprocessor ID data" does not necessarily mean "microprocessor ID" and could include data such as bus size, clock speed, model, etc. We disagree. Since the "microprocessor ID data" must include "data fields that identify the microprocessor type," the ROM of the instant claimed invention has a specific data field which specifically and uniquely identifies the microprocessor type in use within the particular computer system. This is not disclosed or suggested by Durst.

With regard to claims 9 through 26, the examiner brings in Kurihara for the teaching of a CPUID instruction and combines this with Durst "because the reading of the CPUID of Kurihara would allow Durst to access microprocessor ID data from a memory" [answer, page 7].

Independent claim 9 includes the same requirement of claim 1 discussed supra, i.e. "a microprocessor ID memory element for storing microprocessor ID data including data fields that identify the microprocessor type," and Kurihara fails to provide for this deficiency of Durst. Insofar as the CPUID instruction is concerned, while Kurihara does describe such an instruction, as pointed out by appellants [reply brief, page 12], the CPUID of Kurihara is used to distinguish between other processors on a network. It does not identify a particular processor as does the instant claimed invention.

Turning now to independent claims 15 and 22, the examiner points to various portions of Durst [answer, pages 7-8] which the examiner contends correspond to the claimed method and then, recognizing that Durst fails to show the execution of a microprocessor ID instruction, the examiner relies on Kurihara [column 16, lines 6-11] for the teaching of a programming step for reading CPUID data from a memory unit.

As explained supra, with regard to claim 9, the CPUID of Kurihara is used to distinguish between other processors on a network and does not identify a particular type of processor. Moreover, although claims 15 and 22 are method claims, claim 15 still requires "…the contents of a microprocessor ID memory element within said microprocessor that includes microprocessor ID data indicative of microprocessor type…" and claim 22 requires "a microprocessor ID memory element storing microprocessor ID data including data fields that identify the microprocessor type," wherein such "microprocessor ID data" is an important part of the claimed method.

As explained supra, neither Durst nor Kurihara discloses or suggests such "microprocessor ID data" which uniquely identifies the microprocessor in use in the particular computer system of interest. It follows, therefore, that neither reference nor a combination of them can disclose or suggest the claimed method for identifying a microprocessor that is a member of a set of compatible microprocessor families.

Accordingly, the examiner's decision rejecting claims 1 through 26 under 35 U.S.C. ' 103 is reversed.

REVERSED

Kenneth W. Hairston Administrative Patent Judge	)	
Errol A. Krass Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
Richard Torczon Administrative Patent Judge	)	

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